

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
DOCKET NO. 2:13-CV-00013-FDW-DSC**

JOANNE MCMANUS TRIM,

Plaintiff,

vs.

**CAROLYN W. COLVIN,
Commissioner of Social
Security Administration,**

Defendant.

ORDER

THIS MATTER is before the Court upon Plaintiff Joanne McManus Trim’s Motion for Summary Judgment, (Doc. No. 10) and Defendant Commissioner of Social Security Carolyn W. Colvin’s Motion for Summary Judgment, (Doc. No. 12) and the Memorandum and Recommendation of Magistrate Judge David S. Cayer. (Doc. No. 14). For the reasons set forth below, the Court **ACCEPTS** and **ADOPTS** the Memorandum and Recommendation, **GRANTS** Plaintiff’s Motion for Summary Judgment, and **DENIES** Defendant’s Motion for Summary Judgment. The Commissioner’s decision is **REVERSED** and **REMANDED** for a new hearing consistent with the Memorandum and Recommendation.¹

The Federal Magistrate Act provides that “a district court shall make a de novo determination of those portions of the report or specific proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); Canby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983). “By contrast, in the absence of a timely filed objection, a district court need not conduct a


¹ The Court notes that Plaintiff raised three issues on appeal. The Memorandum and Recommendation only addresses one of these issues, but finds it sufficient to reverse and remand the case and does not analyze the others. This Court follows the same approach in adopting the Memorandum and Recommendation.

de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Here, no party filed an objection to the Memorandum and Recommendation, and the time for doing so has expired.

Accordingly, after a careful review of the record in this case, the Court finds that the Magistrate Judge’s findings of fact are supported by the record and his conclusions of law are consistent with and supported by current case law. Thus, the Memorandum and Recommendation is hereby ACCEPTED and ADOPTED, Plaintiff’s Motion for Summary Judgment is hereby GRANTED, and Defendant’s Motion for Summary Judgment is hereby DENIED. The Commissioner’s decision is REVERSED, and this matter is REMANDED for a new hearing consistent with the Memorandum and Recommendation. The Clerk’s Office is directed to CLOSE THE CASE.

IT IS SO ORDERED.

Signed: October 8, 2013


Frank D. Whitney
Chief United States District Judge

